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KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

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| EXAMINER |
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SCHNURR, JOHN R

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2421

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12/23/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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| Office Action Summary | Application No. 09/870,266 | Applicant(s) WHITE ET AL. | |
| | Examiner JOHN R. SCHNURR | Art Unit 2421 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-7 and 13-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-7 and 13-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/09/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to the Amendment After Non-Final Rejection filed 09/09/2008. Claims 4-7 and 13-26 are pending and have been examined.
2. The information disclosure statement (IDS) submitted on 09/09/2008 was considered by the examiner.

Response to Arguments

3. Applicant's arguments with respect to claims 4-7 and 13-26 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

4. Claim 14 is objected to because of the following informalities: It is unclear what the term "the interactive head-end", line 10, is referring to as no interactive head-end was previously introduced in the claim. Appropriate correction is required.
5. Claim 26 is objected to because of the following informalities: The claim is indicated as currently pending in the Remarks, page 10 line 2, however, the claim is missing from the listing of the claims. For the purposes of examination the claim was assumed to be the same as previously presented claim 26. Appropriate correction is required.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herz (US 5,758,257) in view of Ellis (US 6,898,762).

Considering claim 13, Herz discloses a method of operating a computer implemented interactive entertainment system (column 47, lines 26-29) comprising: logging entertainment selections of plural users (column 41, lines 26-27 and 33-36); generating affinity groupings based on similarities in the movie selections logged (column 48, line 19) and tv selection logged (column 6, lines 50-60, column 15, lines 22-29 and column 38, lines 56-64); logging entertainment selections of a first user to create a first user profile (column 9, lines 30-51 and column 45, lines 59-63) the entertainment selections comprising at least one television program watched and at least one video on demand movie received (column 48, lines 55-65); determining an affinity grouping similar to the first user's first user profile (column 34, lines 31-32); and Herz further discloses suggesting a video program to the first user based upon similar preferences of other viewers within the affinity grouping. (column 47, lines 38-42)

Herz fails to disclose plural viewing channels; on certain of said channels, receiving television programs for viewing; on at least one of said channels, receiving video on demand movies; on at least one of said channels, receiving HTML-based content on at least one of said channels comprising at least one of a game channel, an interactive news channel, or a jukebox channel; and in response to a query by the first user transmitted from the interactive controller to the interactive head-end, suggesting a video program to the first user that the first user has never watched.

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In analogous art, Ellis discloses plural viewing channels; on certain of said channels, receiving television programs for viewing (column 7 lines 50-56); on at least one of said channels, receiving video on demand movies; on at least one of said channels, receiving HTML-based content on at least one of said channels comprising at least one of a game channel, an interactive news channel, or a jukebox channel (column 4 lines 49-60, column 12 lines 45-49); and in response to a query by the first user transmitted from the interactive controller to the interactive head-end (column 10 lines 46-50, column 12 lines 32-43), suggesting a video program to the first user that the first user has never watched (column 19 lines 51-60).

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of Herz by utilizing plural viewing channels; on certain of said channels, receiving television programs for viewing; on at least one of said channels, receiving video on demand movies; on at least one of said channels, receiving HTML-based content on at least one of said channels comprising at least one of a game channel, an interactive news channel, or a jukebox channel; and in response to a query by the first user transmitted from the interactive controller to the interactive head-end, suggesting a video program to the first user that the first user has never watched, as taught by Ellis, for the benefit of providing enhanced program guide features (column 1 lines 38-42 Ellis).

8. Claims 4-6, 15-18, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz (US 5,758,257) in view of Ellis (US 6,898,762) further in view of Yoshinobu (US 5,734,444) and further in view of Alexander (US 6,177,931).

Considering claim 4, Herz combined with Ellis, as in claim 13, clearly teaches defining plural viewing channels; on certain of said channels, presenting television programs for viewing.

However, Herz combined with Ellis does not explicitly teach presenting copied video program for viewing wherein a presented copied video program is a determined program from the first user's favorite entertainment copied automatically when the first user was not watching the determined program.

In an analogous art, Yoshinobu clearly teaches a determined program from the first user's favorite entertainment copied automatically when the first user was not watching the determined program. (column 11 line 64 to column 12 line 14, column 15 lines 38-47, column 24 lines 51-59)

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of Herz combined with Ellis by copying a determined program from the first user's favorite entertainment copied automatically when the first user was not watching the determined program, as taught by Yoshinobu, for the benefit of not missing a favorite program when broadcast while watching another program, and also for accommodating the user's viewing preference of recorded programs.

Herz, Ellis and Yoshinobu fail to disclose defining plural viewing channels; on certain of said channels, presenting television programs for viewing; on at least one of said channels, presenting said copied video program for viewing.

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In analogous art, Alexander discloses defining plural viewing channels (column 15, lines 47-48); on certain of said channels, presenting television programs for viewing (column 30, lines 55-58); on at least one of said channels, presenting said copied video program for viewing (column 21, lines 50-54 and column 22, lines 29-33).

It would have been obvious to one of ordinary skill in the art to modify the combined system of Herz, Ellis and Yoshinobu to include presenting said copied video programs for viewing, as taught by Alexander, for the benefit of minimizing channel surfing.

As for claim 5, it is met by the combination of Herz, Ellis, Yoshinobu and Alexander. In particular, Alexander discloses listing the copied video program in an electronic program guide associated with the system, together with a viewing channel on which the copied video can be viewed (Alexander—column 30, lines 53-58).

Considering claim 6, Herz discloses a method of operating a video system (412—figure 4), the video system including a video input able to receive video information from an interactive head-end (column 41, lines 20-28), a controller (column 45, lines 45-46), a remote control (Fig. 10 1008), a screen (Fig. 10 TV) and a store (902—figure 9), the method comprising: the interactive head-end monitoring a user's viewing habits to determine a normally-watched broadcast video program (column 14, lines 5-7 and column 42, lines 7-10). Herz further discloses generating profiles for plural users, said profiles comprising user viewing habits (column 25, lines 7-13) and

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other user habits comprising a game habit (column 47, lines 22-26) and customer's zip code (column 11, lines 61-66); presenting a listing of available programs that appeared favored by other viewers with profiles similar to the user's viewing habits (column 5, lines 23-52 and column 46, lines 50-57); correlating similar profiles into affinity groupings (column 15 lines 22-33, column 47 lines 45-49); wherein the system can suggest to a viewer other programs (column 22, line 64 – column 23, line 5) based upon similar preferences determined from said affinity groupings (column 15 lines 22-33, column 25 line 65 – column 26 line 3, column 47 lines 45-49).

Herz fails to disclose receiving HTML-based content on at least one of said channels; and in response to a query by the first user transmitted from the interactive controller to the interactive head-end, suggesting a video program to the first user that the first user has never watched.

In analogous art, Ellis discloses receiving HTML-based content on at least one of said channels (column 4 lines 49-60, column 12 lines 45-49); and in response to a query by the first user transmitted from the interactive controller to the interactive head-end (column 10 lines 46-50, column 12 lines 32-43), suggesting a video program to the first user that the first user has never watched (column 19 lines 51-60).

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of Herz by receiving HTML-based content on at least one of said channels; and in response to a query by the first user transmitted from the interactive controller to the interactive head-end, suggesting a video program to the first user that the first user has never watched, as taught by Ellis,

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for the benefit of providing enhanced program guide features (column 1 lines 38-42 Ellis).

Herz combined with Ellis fails to disclose the controller copying the video program to the store if the user is not viewing said program when broadcast. Herz combined with Ellis also fails to disclose that the user need not plan in advance to record a normally-watched program, because the normally-watched program is automatically recorded if it is not viewed by the user when broadcast.

In analogous art, Yoshinobu discloses copying the video program to the store if the user is not viewing said program when broadcast. Yoshinobu also discloses that the user need not plan in advance to record a normally-watched program, because the normally-watched program is automatically recorded if it is not viewed by the user when broadcast (column 24, lines 51-59).

It would have been obvious to one of ordinary skill in the art to modify the system of Herz combined with Ellis to include an automatic recording of the normally-watched program, as taught by Yoshinobu, for the benefit of not missing a favorite program when broadcast while watching another favorite program.

Herz, Ellis and Yoshinobu fail to disclose defining plural viewing channels; on certain of said channels, presenting television programs for viewing; on at least one of said channels, presenting said copied video program for viewing. Herz and Yoshinobu further fail to disclose maintaining the copied video programs are after viewing.

In analogous art, Alexander discloses defining plural viewing channels (column 15, lines 47-48); on certain of said channels, presenting television programs for viewing

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(column 30, lines 55-58); on at least one of said channels, presenting said copied video program for viewing (column 21, lines 50-54 and column 22, lines 29-33). Alexander further discloses that the copied video programs are maintained after viewing (the recorded programs may be set to be viewed once, daily, or weekly i.e. the program is maintained after the first viewing for the daily or the weekly viewing—column 21, lines 50-54 and column 12, lines 10-21, where Alexander explicitly discloses copying video programs on a Digital Video Disc (DVD), wherein the copied video programs are obviously maintained after viewing).

It would have been obvious to one of ordinary skill in the art to modify the combined system of Herz, Ellis and Yoshinobu to include presenting said copied video programs for viewing, as taught by Alexander, for the benefit of minimizing channel surfing.

As for claim 15, Yoshinobu further discloses monitoring the user's viewing habits to determine a ranking of viewed broadcast video programs by viewing frequency; and copying to the store plural programs that are not viewed by the user when broadcast, in accordance with said ranking (column 11 line 64 to column 12 line 14 and column 15 lines 38-47 and column 24 lines 51-59). Therefore, the recording of programs is in accordance with said ranking. Alexander discloses listing the copied video program in an electronic program guide associated with the system, together with a viewing channel on which the copied video can be viewed (Alexander—column 30, lines 53-58).

With regards to claim 16, it is met by the combination of it is met by the combination of Herz, Ellis, Yoshinobu and Alexander. In particular, Yoshinobu discloses listing the automatically copied favorite video program in the favorite channel by title (column 24, lines 21-26) and length (start time and end time—column 14, lines 48-50).

Regarding claim 17, it is met by the combination of it is met by the combination of Herz, Ellis, Yoshinobu and Alexander. In particular, Yoshinobu discloses automatically playing the copied favorite video program when the favorites channel is selected (column 14, lines 54-57).

Considering claim 18, it is met by the combination of it is met by the combination of Herz, Ellis, Yoshinobu and Alexander. In particular, Yoshinobu discloses listing plural copied video programs (Yoshinobu—see figure 10) from which the copied favorite video program can be selected for playback (column 14, lines 48-57).

With regards to claim 20, it is met by the combination of Herz, Ellis, Yoshinobu and Alexander. In particular, Herz discloses that the specific program is suggested to the viewer (column 22, line 64 – column 23, line 5 and column 47, lines 37-45) in response to a viewer's inquiry (column 47, lines 37-45 and column 48, line 48 – column 49, line 1).

Regarding claim 21, it is met by the combination of Herz, Ellis, Yoshinobu and Alexander. In particular, Herz discloses that the specific program is suggested to the viewer (column 22, line 64 – column 23, line 5 and column 47, lines 37-45) autonomously (column 49, lines 52-54).

9. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herz (US 5,758,257) in view of Ellis (US 6,898,762) in view of Yoshinobu (US 5,734,444) further in view of Alexander (US 6,177,931) and further in view of Smith (US 5,933,141).

Regarding claim 7, Herz discloses a method of operating a video system (412—figure 4), the system including a video input (column 40, line 66 – column 41, line 4), an interactive controller (column 45, lines 45-46), an interactive head-end (column 41 lines 20-41), a remote control (Fig. 10 1008), a screen (Fig. 10 TV) and a store (902—figure 9), the method comprising: the interactive head-end, through information passed by the interactive controller, monitoring a user's viewing habits to determine at least one favorite broadcast video program, a favorite broadcast program comprising a broadcast program usually watched by the user (column 14, lines 5-7 and column 42, lines 7-10); suggesting a video program to the user (column 22, line 64 – column 23, line 5) based upon similar preferences of other viewers determined from said monitoring (column 15 lines 22-33, column 25 line 65 – column 26 line 3, column 47 lines 45-49).

Herz fails to disclose in response to a query by the user transmitted from the interactive controller to the interactive head-end, suggesting a video program to the user that the user has never watched.

In analogous art, Ellis discloses in response to a query by the first user transmitted from the interactive controller to the interactive head-end (column 10 lines 46-50, column 12 lines 32-43), suggesting a video program to the user that the user has never watched (column 19 lines 51-60).

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of Herz by responding to a query by the user transmitted from the interactive controller to the interactive head-end by suggesting a video program to the user that the user has never watched, as taught by Ellis, for the benefit of providing enhanced program guide features (column 1 lines 38-42 Ellis).

Herz combined with Ellis fails to disclose copying the video program to the store if the user is not viewing said program when broadcast. Herz combined with Ellis also fails to disclose that the user need not plan in advance to record a favorite program, because the favorite program is automatically recorded if it is not viewed by the user when broadcast.

In analogous art, Yoshinobu discloses copying the video program to the store if the user is not viewing said program when broadcast. Yoshinobu also discloses that the user need not plan in advance to record a favorite program, because the favorite

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program is automatically recorded if it is not viewed by the user when broadcast (column 24, lines 51-59).

It would have been obvious to one of ordinary skill in the art to modify the system of Herz combined with Ellis to include an automatic recording of the favorite program as well as the recording of programs in accordance with a ranking system, as taught by Yoshinobu, for the benefit of not missing a favorite program when broadcast while watching another favorite program and also for accommodating the user's viewing preference of recorded programs.

Herz, Ellis and Yoshinobu disclose defining plural viewing channels (virtual channels); on certain of said channels, presenting television programs for viewing (television programs are presented on said virtual channels—Herz—column 47, lines 38-52); presenting the most desirable video program on a designated channel (a virtual channel) customized for the customer (Herz—column 47, lines 38-42). Herz and Yoshinobu further disclose that the user need not plan in advance to record a favorite program, because the favorite program is automatically recorded if it is not viewed by the user when broadcast (Yoshinobu— column 24, lines 51-59).

Herz and Yoshinobu fail to disclose presenting said *copied* video program for viewing on a designated channel.

In analogous art, Alexander discloses defining plural viewing channels (column 15, lines 47-48); on certain of said channels, presenting television programs for viewing (column 30, lines 55-58); on at least one of said channels, presenting said copied video program for viewing (column 21, lines 50-54 and column 22, lines 29-33). Alexander

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further discloses displaying a translucent menu in response to receiving an indication that a remote control button has been pressed and highlighting a region of the menu (column 3 lines 21-55).

It would have been obvious to one of ordinary skill in the art to modify the combined system of Herz, Ellis and Yoshinobu to include presenting said copied video programs for viewing, as taught by Alexander, for the benefit of minimizing channel surfing.

However, Alexander fails to disclose the menu is a control menu with a play button.

In an analogous art, Smith discloses displaying a control panel with a play button (Figs. 4A-4C column 6 line 51 to column 7 line 25).

It would have been obvious to one of ordinary skill in the art to modify the combined system of Herz, Ellis, Yoshinobu and Alexander to include a control panel with a play button, as taught by Smith, for the benefit of preventing the display screen from becoming cluttered (see column 1 lines 49-63 Smith).

10. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herz (US 5,758,257) in view of Ellis (US 6,898,762) further in view of Yoshinobu (US 5,734,444).

Considering claim 14, Herz discloses a computer readable storage medium including executable instructions that cause a digital processor to perform a method

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(figure 11 and column 10, lines 6-20 and column 49, lines 32-51), the executable instructions comprising: instructions for monitoring a user's viewing habits to determine a favorite video program (column 14, lines 5-7 and column 42, lines 7-10); instructions for defining plural viewing channels (virtual channels); instructions for generating profiles for plural users connected to the interactive head-end (column 25, lines 7-13), said profiles comprising user viewing habits and at least two other user features comprising a game habit (column 47, lines 22-26), a chat habit, zip code (column 11, lines 61-66), an interactive news habit, or a jukebox habit; instructions for correlating profiles similar to the first user into an affinity grouping (column 15 lines 22-33, column 47 lines 45-49); and suggesting a video program to the first user (column 22, line 64 – column 23, line 5) based upon similar preferences of other viewers within the affinity grouping (column 15 lines 22-33, column 25 line 65 – column 26 line 3, column 47 lines 45-49).

Herz fails to disclose in response to a query by the first user transmitted from the interactive controller to the interactive head-end, instructions for suggesting a video program to the first user that the first user has never watched.

In analogous art, Ellis discloses in response to a query by the first user transmitted from the interactive controller to the interactive head-end (column 10 lines 46-50, column 12 lines 32-43), suggesting a video program to the first user that the user has never watched (column 19 lines 51-60).

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of Herz by responding to a query

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by the first user transmitted from the interactive controller to the interactive head-end by suggesting a video program to the first user that the user has never watched, as taught by Ellis, for the benefit of providing enhanced program guide features (column 1 lines 38-42 Ellis).

Herz combined with Ellis fails to disclose instructions for copying the favorite video program to a storage medium if the user is not viewing said program when broadcast wherein the user need not plan in advance to record a favorite program, because the favorite program is automatically recorded if it is not viewed by the user when broadcast.

In analogous art, Yoshinobu discloses instructions for copying the favorite video program to a storage medium if the user is not viewing said program when broadcast wherein the user need not plan in advance to record a favorite program, because the favorite program is automatically recorded if it is not viewed by the user when broadcast (column 24, lines 51-59).

It would have been obvious to one of ordinary skill in the art to modify the system of Herz combined with Ellis to include an automatic recording of the favorite program, as taught by Yoshinobu, for the benefit of not missing a favorite program when broadcast while watching another favorite program.

11. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herz (US 5,758,257) in view of Ellis (US 6,898,762) further in view of Yoshinobu (US

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5,734,444) further in view of Alexander (US 6,177,931) and further in view of Daniels (2002/0032907).

As for claim 19, Herz, Ellis, Yoshinobu and Alexander fail to disclose permitting a viewer to take a break from broadcast programming comprising instructions for receiving a delay program selection; and instructions for routing broadcast programming to memory upon receiving the delay program selection.

In analogous art, Daniels discloses permitting a viewer to take a break from broadcast programming (paragraph 0080, lines 8-11) comprising instructions for receiving a delay program selection (pause command from the viewer—paragraph 0080, lines 1-4); and instructions for routing broadcast programming to memory upon receiving the delay program selection (start-recording upon receiving the pause command—paragraph 0021, lines 8-10 and paragraph 0083, lines 1-8).

It would have been obvious to one of ordinary skill in the art to modify the combined system of Herz, Ellis, Yoshinobu and Alexander to include permitting a viewer to take a break from broadcast programming by use of a delay command, as taught by Daniels, for the benefit of allowing the viewer to take a break from viewing the current channel and/or switch to another channel (paragraph 0080, lines 8-11).

12. Claims 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz (US 5,758,257) in view of Ellis (US 6,898,762) further in view of Yoshinobu (US

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5,734,444) further in view of Alexander (US 6,177,931) and further in view of Okada (US 7,095,949).

As for claims 24-26, Herz, Ellis, Yoshinobu and Alexander fail to disclose deleting at least one of the plural programs copied to the store by time of copy, wherein the oldest copy is deleted.

In analogous art, Okada discloses deleting stored video content by time of copy, wherein the oldest copy is deleted (column 8 lines 45-47).

It would have been obvious to one of ordinary skill in the art to modify the combined system of Herz, Ellis, Yoshinobu and Alexander to include deleting stored video content by time of copy, wherein the oldest copy is deleted, as taught by Okada, for the benefit of allowing the newest programming to be recorded.

As for claims 22 and 23, Herz, Ellis, Yoshinobu and Alexander fail to disclose deleting at least one of the plural programs copied to the store by time of copy, wherein the oldest copy is deleted.

In analogous art, Okada discloses deleting stored video content by time of copy, wherein the oldest copy is deleted (column 8 lines 45-47).

It would have been obvious to one of ordinary skill in the art to modify the combined system of Herz, Ellis, Yoshinobu and Alexander to include deleting stored video content by time of copy, wherein the oldest copy is deleted, as taught by Okada, for the benefit of allowing the newest programming to be recorded.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN R. SCHNURR whose telephone number is (571)270-1458. The examiner can normally be reached on Monday - Friday, 8:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JRS

/HUNTER B. LONSBERRY/
Primary Examiner, Art Unit 2421